

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil Case No.: 0:23-cv-01600 (JRT/DTS)**

Bernard Howell, Sr.,

Plaintiff,

v.

**MEMORANDUM IN SUPPORT OF
MOTION FOR DEFAULT JUDGMENT**

Frontier Airlines Holdings, Inc.,

Defendant.

The undersigned counsel, on behalf of Plaintiff Bernard Howell, hereby moves the Court for Entry of Default Judgment as to Defendant Frontier Airlines Holdings, Inc., upon the Summons and Complaint heretofore filed and served upon Defendant in accordance with the Court's Order, dated October 5, 2023 (Dkt. 5), and in support thereof shows the Court the following:

On July 6, 2023, Plaintiff commenced suit against Defendant by filing in the United States District Court, District of Minnesota, the Summons, Complaint, and Civil Cover Sheet (Dkts. 3 and 4) alleging that due to negligent acts or omissions by Defendant to maintain, inspect, and operate the aircraft, Plaintiff sustained a concussion and traumatic brain injury. A copy of said pleadings are attached as Exhibit 1 and is incorporated herein by reference.

On October 5, 2023, the Court ordered (Dkt. 5) Plaintiff to notify Defendant with said pleadings and then to file proof of service showing that notification on Defendant

was made. On October 10, 2023, the pleadings were served upon the Registered Agent for Defendant, Corporate Service Company, located at 2345 Rice St., Suite 230, Roseville, MN 55113, and on October 11, 2023, an Affidavit of Service was filed with the Court (Dkt. 6). A true and correct copy of said pleading is attached as Exhibit 2.

After allowing more than 10 days to elapse after notification was made, and no Answer thereto having been filed or served by Defendant, the Defendant has now failed to plead or otherwise defend this action. Pursuant to the Court's Order (Dkt. 5), Plaintiff is now moving the Court for Entry of Default Judgment against Defendant Frontier Airlines Holdings, Inc. for relief sought by Plaintiff Bernard Howell in his Complaint. Said Motion is based upon all of the files, records, and proceedings herein. The amount for default judgement sought is \$275,000.00.

DISCUSSION OF LAW

Rule 55. Default

(a) Entry. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and

proper and shall accord a right of trial by jury to the parties when and as required by any statute of the United States.

CONCLUSION

Since Defendant has not appeared, Plaintiff respectfully requests an evidentiary hearing for the court to determine damages as set forth in Rule 55 of the Rules of Civil Procedure for U.S. District Courts. Plaintiff shall provide proper notice of said scheduled hearing.

MORRIS LAW GROUP, P.A.

Dated: October 31, 2023

s/ Richard W. Hechter
Richard W. Hechter (#193537)
7380 France Avenue South, Suite 250
Edina, MN 55435
Phone: (952) 832-2000
Fax: (952) 832-0020
Email: rhechter@morrislawmn.com

ATTORNEYS FOR PLAINTIFFS